

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

24735

FILE: B-211239 **DATE:** April 6, 1983

MATTER OF: Salon Tropical Restaurant

DIGEST:

Bid submitted under a total labor surplus area (LSA) set-aside which designates a place of performance that does not appear on the Department of Labor's published list of LSA's is nonresponsive.

Salon Tropical Restaurant protests the rejection of the bid it submitted in response to invitation for bids DLS-3-83 issued by the Immigration and Naturalization Service, Department of Justice. We summarily deny the protest.

The solicitation was issued as a total small business/labor surplus area (LSA) set-aside. The solicitation advised that bids from bidders which "do not agree to perform as labor surplus area concerns will be considered nonresponsive."

Tropical submitted the apparent low bid in response to the solicitation, but designated Hialeah, Florida as the place of performance. As of the bid opening date, Hialeah did not appear on the Department of Labor's published list of labor surplus areas.

Salon contends that since it submitted the lowest bid and has extensive food service experience, its bid should be accepted. We conclude, however, that the rejection of the bid was proper.

The Federal Procurement Regulations (FPR) encourage total small business LSA set-asides under certain conditions. See § 1-1.804-1 (1964 ed. amend 192). To submit a responsive bid in an LSA restricted competition, the bidder must legally obligate itself to perform in an LSA by designating a place of performance in its bid that is identified as an LSA on the Department of Labor's published list of LSAs that is current as of the bid opening date.

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See Vi Mil Inc., B-208012, September 20, 1982, 82-2 CPD 244. Since Salon's place of performance did not appear on the LSA list current as of bid opening, its bid was clearly nonresponsive.

The protest is summarily denied.

for *Milton J. Jordan*
Comptroller General
of the United States